

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

ALBERT HALL, Register No. 1041356,)	
)	
Plaintiff,)	
)	
v.)	No. 07-4074-CV-C-NKL
)	
DAVE DORMIRE,)	
)	
Defendant.)	

ORDER

On February 12, 2009, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record¹, including the exceptions filed by plaintiff on March 2, 2009. Plaintiff states in his exceptions that he will not challenge dismissal of his claims, without prejudice, for failure to exhaust his administrative remedies required by 42 U.S.C. 1997e. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of February 12, 2009, is adopted. [68] It is further

ORDERED that plaintiff's motion for summary judgment is denied, without prejudice. [49] It is further

¹Court proceedings, if any, are recorded by electronic recording equipment and the tapes are available for review by the court and counsel.

ORDERED that defendant's motion for summary judgment on exhaustion grounds is granted, and plaintiff's claims are dismissed, without prejudice, pursuant to 42 U.S.C. § 1997e. [61] It is further

ORDERED that defendant's further arguments in support of summary judgment are denied, without prejudice.

/s/

NANETTE K. LAUGHREY
United States District Judge

Dated: March 10, 2009
Jefferson City, Missouri